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10/673,195

09/30/2003

Manabu Kitamura

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER

JACOBS, LASHONDA T

ART UNIT

PAPER NUMBER

2157

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,195

Applicant(s)

KITAMURA ET AL.

Examiner

LaShonda T. Jacobs

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/11/05, 1/6/04, 9/30/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Midgley et al (hereinafter, "Midgley", U.S. Pat. No. 6,460,055).

As per claim 1, Midgley discloses a computer system comprising computers, first and second servers connected to said computers, and a storage system connected to said first and second servers, with said storage system comprising a plurality of storage devices and a storage controller which controls said plurality of storage devices, wherein:

said first server comprises:

- a first memory which stores a first program (col. 8, lines 2-14, lines 28-47); and
- a first CPU which executes said first program (col. 8, lines 2-14, lines 28-47);

said second server comprises:

- a second memory which stores a second program (col. 8, lines 2-14, lines 28-47); and
- a second CPU which executes said second program (col. 8, lines 2-14, lines 28-47);

said second program comprises:

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- a part for making a request to said first server for information necessary for said second server to back up a file as a backup object instead of said first server (col. 12, lines 33-48);

said first program comprises:

- a part which responds to said request by sending said second server an identifier of a second storage device that stores duplicate data of said file (col. 12, lines 51-66); and

said second program further comprises:

- a part which obtains backup data from said second storage device, based on said identifier (col. 12, lines 51-66).

As per claim 7, Midgley discloses a first server connected to computers, a second server and a storage system that comprises a plurality of storage devices and a storage controller which controls said plurality of storage devices wherein:

said first server comprises:

- a memory which stores a program (col. 8, lines 2-14, lines 28-47); and
- a CPU which executes said program (col. 8, lines 2-14, lines 28-47); and

said program comprises:

- a part which inhibits write into a file as a backup object, in response to a request for information necessary for said second server to back up said file instead of said first server, with said request being made by said second server (col. 17, lines 36-53);
- a part which writes data that have not been written yet into a first storage device to store said file, into said first storage device (col. 17, lines 36-53);
- a part which generates duplicate data of said file (col. 12, lines 51-66); and

- a part which sends said second server an identifier of a second storage device that stores said duplicate data (col. 12, lines 51-66).

As per claim 10, Midgley discloses a second server connected to computers, a first server and a storage system that comprises a plurality of storage devices and a storage controller for controlling said plurality of storage devices, wherein:

said second server comprises:

- a memory which stores a second program (col. 8, lines 2-14, lines 28-47); and
- a CPU which executes said program (col. 8, lines 2-14, lines 28-47); and

said second program comprises:

- a part which makes a request to said server for information necessary for said second server back up a file as a backup object instead of first server (col. 12, lines 33-48);
- a part which receives an identifier of a second storage device that stores duplicate data of said file, from said first server (col. 12, lines 49-66); and
- a part which obtains backup data from said second storage device, based on said identifier (col. 12, lines 49-66).

As per claim 14, Midgley discloses a backup method for performing backup in a computer system comprising computers, first and second servers connected to said computers, and a storage system connected to said first and second servers, with said storage system comprising a plurality of storage devices and a storage controller which controls said plurality of storage devices, wherein:

- said second server makes a request to said first server for information necessary for said second server to backup a file up as a backup object instead of said first server (col. 12, lines 33-48);
- said first server sends an identifier of a second storage device that stores duplicate data of said file, in response to said request (col. 12, lines 49-66); and
- said second server obtains backup data from said second storage device, based on said identifier (col. 12, lines 49-66).

As per claims **2** and **12**, Midgley discloses:

- said second server further connected to a backup server (col. 7, lines 1-13); and
- said second program further comprises a part which sends the obtained backup data to said backup server (col. 12, lines 51-66).

As per claims **3** and **11**, Midgley discloses:

- said second program further comprises a part which sets a path to said second storage device, based on said identifier (col. 12, lines 49-66).

As per claim **4**, Midgley discloses wherein:

- said first program further comprises a part which inhibits write into said file and which waits data that have not been written yet into a first storage device to store said data file, into said first storage device (col. 17, lines 36-53).

As per claims **5**, **8** and **18**, Midgley discloses wherein said first program further comprises:

- a part which sends said storage system an ID of a port connected to said second storage device (col. 7, lines 1-9); and

- a part which receives the identifier of said second storage device, with said identifier being sent by said storage system in response to said ID (col. 12, lines 49-66).

As per claims 6, 9, 13 and 19, Midgley discloses:

- said request a directory name of the backup object (col. 11, lines 46-61).

As per claim 15, Midgley discloses:

- said second server sends the obtained backup data to a backup server connected to said second server (col. 7, lines 1-13).

As per claim 16, Midgley discloses:

- said second server sets a path to said second storage device, based on said identifier (col. 12, lines 49-66).

As per claim 17, Midgley discloses:

- said first server inhibits write into said file, and writes data that have not been written yet into a first storage device to store said file, into said first storage device (col. 17, lines 36-53).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,526,418 to Midgley et al

U.S. Pat. No. 6,526,418 to St. Pierre et al

U.S. Pat. No. 5,537,585 to Blickenstaff et al

U.S. Pat. No. 6,260,069 to Anglin

U.S. Pat. No. 6,886,086 to Kobayashi et al

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShonda T Jacobs
Examiner
Art Unit 2157

ltj
December 7, 2005


ABDULLAHI SALAD
PRIMARY EXAMINER